COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

"A Tradition of Service"

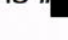
OFFICE CORRESPONDENCE

DATE: December 4, 2015

FROM: KELLEY S. FRASER, COMMANDER
SOUTH PATROL DIVISION

TO: DONNIE MAULDIN, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS

Case Number:	SH2355933
Incident:	Hit Shooting
Incident Date:	May 24, 2014
Unit:	West Hollywood Station
Suspect:	Brown, Altriki MB/03-27-80
Involved Employees:	Deputy Zenon Porche #[redacted] 
EFRC Date:	December 3, 2015

The Executive Force Review Committee (EFRC) consisting of Commanders Kelley S. Fraser, Michael R. Claus and Eddie Rivero met and reviewed the above case.

FINDINGS:

The EFRC determined the use of deadly force and tactics were within Department policy.

RECOMMENDATIONS:

The EFRC recommended the Unit Commander conduct a tactical debriefing regarding the incident. The EFRC also recommended that Deputy Zenon Porche attend Tactical Training as it relates to the handling of High Risk Traffic Stops.

KSF:JRB:jrb

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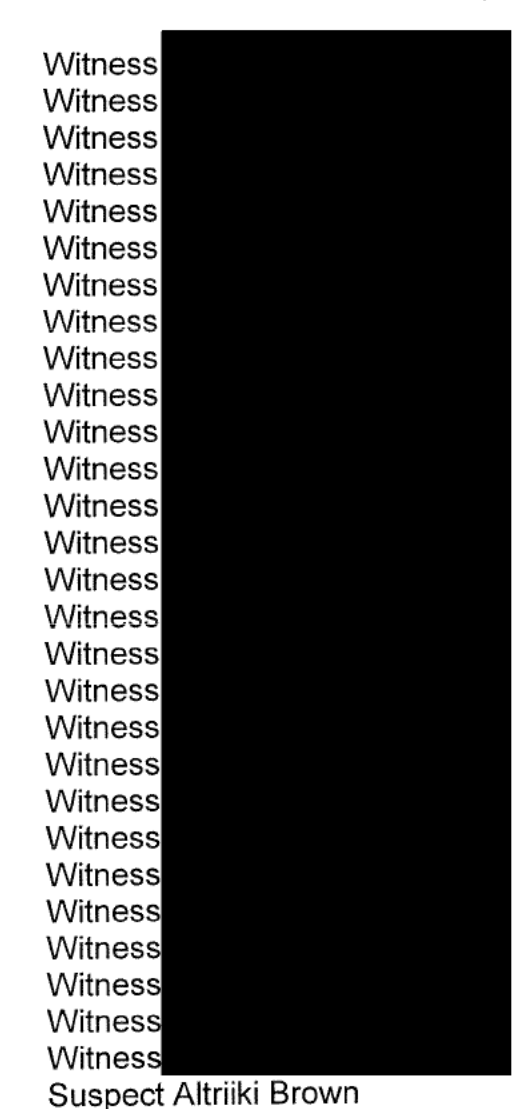


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LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY o District Attorney
SHARON J. MATSUMOTO o Chief Deputy District Attorney
JOSEPH P. ESPOSITO o Assistant District Attorney

SCOTT K. GOODWIN o Director

January 22, 2015

Captain Rod Kusch
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

Re: J.S.I.D. File #14-0355
L.A.S.D. File #014-02620-0987-053

Dear Captain Kusch,

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 24, 2014, non-fatal shooting of Altrikii Brown by Los Angeles Sheriff's Department (LASD) Deputy Zenon Porche. We have concluded that Deputy Porche acted in lawful self-defense and defense of others.

The District Attorney Command Center was notified of this incident on May 24, 2014. The District Attorney Response Team (DART), comprised of Deputy District Attorney Geoffrey Rendon and District Attorney Senior Investigator Richard McIntosh, responded to the scene, was given a walkthrough, and participated in witness interviews.

The following analysis is based upon reports, photographs, and recordings submitted to this office by LASD Homicide Investigators Adan Torres and Jeff Leslie. The voluntary statement of Deputy Porche was considered as part of this analysis.

FACTUAL ANALYSIS

On May 24, 2014, at approximately 1:50 a.m., LASD Deputy Zenon Porche was working an overtime assignment, providing security at the House of Blues, an entertainment venue in West Hollywood. That evening, a rap music artist known as "[redacted]" had performed in concert, along with a DJ known as "[redacted]" LASD Deputies [redacted], Sergio Vinegas, Edmond Ohandjanian, Trenton Miles and Christopher Jackson were also working overtime in a similar capacity as Deputy Porche. Sergeant Chris Tater supervised the group of deputies, each of whom was wearing an LASD uniform. Several Los Angeles Police Department (LAPD) officers were also present, working off-duty in plainclothes assignments.

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Following the concert, [redacted] and several members of his entourage were involved in a fistfight with a concertgoer, Altrikii Brown. The fight took place in the rear parking lot of the venue, near the valet stand. A large number of concertgoers, possibly 50 or more, were in or around the area where the fight took place. Security officers intervened and stopped the fight. Security officers ordered people to get into their cars and leave.

Brown entered his vehicle, a Chrysler 300, which was parked in a line with other vehicles waiting to exit the parking lot. A Pontiac Bonneville was parked approximately six to ten feet in front of Brown's car. Brown started his vehicle, revved the engine and violently slammed into the rear of the Pontiac. A security guard, [redacted] was standing between the cars and got out of the way just before the impact. Brown continued to accelerate into the rear bumper of the Pontiac. At some point, either due to Brown's reversing the vehicle or due to the force of the initial impact, some space existed between the two cars and Brown slammed into the rear of the Pontiac a second time.

Immediately after the initial collision, Porche, [redacted] Vinegas, Ohandjanian, Miles, Jackson, and Tater positioned themselves at various distances outside Brown's vehicle. Porche stood outside and to the rear of the driver's door of Brown's car. The deputies repeatedly ordered Brown to, "Turn the car off!" and to, "Get out of the car!" Porche, [redacted] and Venegas drew their service weapons and pointed them at Brown. Brown ignored the deputies' commands and continued to accelerate, causing the rear tires of his vehicle to spin. Brown's vehicle began to slide off the Bonneville's rear bumper due to the force of the acceleration.

Bystanders were standing in all directions of Brown's vehicle, with a crowd of 20 or more a short distance behind the Chrysler. Porche feared that Brown was going to try to kill someone, either by forcing the Bonneville out of the way or by placing his vehicle in reverse. Porche, in fear for his life and the lives of the countless people in the immediate vicinity, fired one time at Brown through the rear driver's side window. Brown was not struck and continued to accelerate. Porche, still in fear, fired a second time. Brown was struck in the left arm and stopped the car. Brown opened the driver's door of his vehicle and was either removed from, or fell out of, the vehicle. Deputies handcuffed Brown and detained him.

Paramedics responded and transported Brown to Cedars-Sinai Medical Center, where he was treated for a single gunshot wound.

Numerous witnesses, both peace officers and civilians, were interviewed by investigators. Each described a similar set of facts and expressed fear that Brown was going to run people over.

Statement of Altrikii Brown

Investigators interviewed Brown at Cedars-Sinai Medical Center. Brown attended the concert with a female companion. While at the event, Brown consumed several alcoholic beverages. After the concert, while waiting for his car, Brown got into a fight with three or four males.

Brown told investigators that he was standing outside his vehicle, trying to get in, when he was shot by an unknown person. Brown denied entering the vehicle prior to being shot.

Video Recording

Investigators obtained surveillance video from the House of Blues. Unfortunately, the camera angle does not capture the incident directly. The camera angle is directed towards an area to the rear of the location where Brown's vehicle was parked before he got in it. The video shows people running away from the area where the incident took place and the arrival of numerous sheriff's deputies.

Forensic Evidence

At the time of the incident, Porche was armed with a department-issued 9mm Beretta semiautomatic handgun. At the scene, investigators located two expended cartridge casings that had been discharged from Porche's firearm.

There was damage to the front bumper of Brown's Chrysler and the rear bumper of the Pontiac, both of which appeared to be constructed of a plastic, or plastic-like, material. The damage to the Chrysler consisted of broken trim and scratches near the front right bumper. The center rear portion of the Pontiac was gouged, the paint was heavily scratched and is marked with paint transferred from the Chrysler.

Pending Criminal Case

As a result of his actions in the underlying incident, Brown has been charged in case SA087476 with one count of assault with a deadly weapon, in violation of Penal Code section 245(a)(1). That case is currently pending trial.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense if it reasonably appears to the person claiming the right of self-defense that he actually and reasonably believed he was in imminent danger of great bodily injury or death. The belief in the need to defend oneself must be both actual and reasonable.

"[T]he rule is well established that one who, without fault, is placed under circumstances sufficient to excite the fears of a reasonable man that another designs to commit a felony or some great bodily injury and to afford grounds for a reasonable belief of imminent danger, may act upon those fears alone and may slay his assailant and be justified by appearances."[1]

[1] *People v. Mercer* (1962) 210 Cal. App. 2d 153, 161.

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent injury which appears to be imminent.[2]

"Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety."[3]

"The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments -- in circumstances that are tense, uncertain, and rapidly evolving -- about the amount of force that is necessary in a particular situation."[4]

The Fourth Amendment reasonableness test is, "an objective one: the question is whether the officer's actions are 'objectively reasonable' in light of the facts and circumstances confronting them."[5] The analysis must take into account the officer's perceptions as part of the totality of the circumstances.[6]

In *Graham*, the United States Supreme Court held that the reasonableness of the force used "requires careful attention to the facts and circumstances" of the particular incident. "...Thus, under *Graham*, we must avoid substituting our personal notions of proper police procedure for the instantaneous decision of the officer at the scene. We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes 'reasonable' action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure."[7]

The test of whether the officer's actions were objectively reasonable is "highly deferential to the police officer's need to protect himself and others."[8]

CONCLUSION

The evidence examined shows that in the early morning hours of May 24, 2014, LASD Deputy Zenon Porche was working an overtime shift, providing security at the House of Blues in West Hollywood. A fight involving several men broke out in the rear parking lot of the venue. Security personnel intervened and stopped the fight. One of the participants, Altrikii Brown, entered his vehicle, which was parked in a line with other vehicles. Brown turned the ignition, revved the engine and accelerated the vehicle, slamming into the rear of the vehicle in front of

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[2] CALCRIM No. 3470.
[3] *People v Collins*, (1961) 189 Cal. App.2d 575.
[4] *Graham v. Conner*, (1989) 490 U.S. 386, 396-397.
[5] *Graham v. Connor* (Supra) 490 U.S. at 396.
[6] *Milstead v. Kibler* (1999) 1999 U.S. Dist Lexis 8380.
[7] *Smith v. Freland* (6th Cir. 1992) 954 F.2d 343, 347.
[8] *Munoz v. City of Union City* (2004) 120 Cal. App. 4th 1077, 1102.

him. Brown nearly crushed a security guard who had to jump out of the way to avoid being struck by Brown's car.

Porche and several other LASD deputies were standing nearby. Porche withdrew his service weapon and, along with his fellow deputies, ordered Brown to, "Turn the car off!" and, "Get out of the car!" Brown ignored the deputies' orders and continued to accelerate, causing a second collision between the vehicles. The deputies continuously repeated their orders as the rear wheels of Brown's vehicle spun. Porche believed that Brown was going to kill someone. A large group of bystanders were in close proximity to the vehicles. Porche was standing just outside the driver's side door of Brown's car. Porche, in fear for his life and the lives of others, fired a round at Brown. Brown was not struck and continued to accelerate. Porche, still in fear, fired a second shot. Brown was struck in the arm and stopped the car. Brown was taken into custody.

Based on the evaluation set forth above, we conclude that Deputy Porche acted in lawful self-defense and defense of others when he used deadly force against Brown. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

JACKIE LACEY
District Attorney

By

GEOFFREY RENDON
Deputy District Attorney
(213)974-3888

c: Deputy Zenon Porche, #[redacted]